



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JLP:ddj

Docket No: 4600-99

2 November 1999

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum 1780 PERS 604 of 24 September 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



**DEPARTMENT OF THE NAVY**  
**NAVY PERSONNEL COMMAND**  
**5720 INTEGRITY DRIVE**  
**MILLINGTON TN 38055-0000**

1780  
PERS-604  
24 Sep 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO [REDACTED]

Ref: (a) NPC memo 5420 PERS-00ZCB of 30 Aug 99  
(b) Title 10, United States Code, Chapter 107  
(c) Veterans' Benefits Improvement Act of 1996  
(d) BUPERSINST 1780.1

1. The following is provided in response to reference (a):

a. Eligibility for Federally Legislated Educational Benefit Programs is determined by the member's initial entry onto active duty. Per reference (b), the educational program available to [REDACTED] when she entered active duty on 21 August 1981 was the Educational Assistance Active Duty Test Program (EATP), Section 903. EATP, Section 903 was a noncontributory Veterans' Educational Assistance Program (VEAP). Unlike the voluntary contributory VEAP (Chapter 32), which required the member to contribute up to a maximum of \$2,700 to a VEAP account, under the EATP, Navy deposited \$2,700 into the servicemember's VEAP account.

b. Reference (c) provided the opportunity for VEAP participants to enroll in the Montgomery GI Bill (MGIB) Program provided they were on active duty and had contributions in a VEAP account on 9 October 1996 (date of enactment). Eligible members had until 8 October 1997 to convert from VEAP to the MGIB Program. Members electing to enroll in the MGIB Program were required to pay \$1,200 either via payroll reduction or lump sum payment. Members were required to submit a separate request to the Department of Veterans Affairs for a refund of contributions that the member had paid into VEAP. There was never any provision to have the VEAP account funds transfer to the MGIB Program account.

c. A review of [REDACTED] records indicates she did enroll in EATP thus establishing her eligibility for conversion to the MGIB Program. Since [REDACTED] was an EATP vice Chapter 32 VEAP participant and Navy paid her VEAP contribution, she is not eligible for any refund of the VEAP contribution as per reference (d). She elected to convert to the MGIB Program on 3 October 1997 and the required \$1,200 for MGIB Program enrollment was properly collected through payroll reduction.

Since she is not eligible to receive a refund of the money in her VEAP account and her pay was correctly reduced to pay for the MGIB Program enrollment, recommend the Board deny [REDACTED] petition for a refund of both the \$2,700 for VEAP and the \$1,200 for enrollment into the MGIB Program.

2. PERS-604's point of contact is EM1(SW) Thompson who can be reached at (DSN) 882-4262 or (C) 901-874-4262.



G. VICKERS  
Commander, U.S. Navy  
Deputy Director, Navy Drug and  
Alcohol, Fitness, Education, and  
Partnerships Division (PERS-60)